O.R.L.

office of the registrar of lobbyists

BRITISH COLUMBIA

Annual Report 2013 - 2014

O.R.L. office of the registrar of lobbyists BRITISH COLUMBIA

Transparent lobbying Accountable government

July 2014

The Honourable Linda Reid
Speaker of the Legislative Assembly of British Columbia
Room 207, Parliament Buildings
Victoria, BC V8V 1X4

Honourable Speaker:

In accordance with s. 9.1(1) of the *Lobbyists Registration Act*, I have the honour to present the Office of the Registrar of Lobbyists Annual Report to the Legislative Assembly.

This report covers the period from April 1, 2013 to March 31, 2014.

Yours sincerely,

Elizabeth Denham

Registrar of Lobbyists for British Columbia

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registrar's message

Transparency in lobbying is critical to a well-functioning democracy. As the Organization for Economic Co-operation and Development noted in its 2009 report on lobbying, "Private interests seeking to influence government decisions, legislation or the award of contracts is part of the policy-making process in modern democracies. Lobbying can improve government decisions by providing valuable insights and data, but it can also lead to unfair advantages for vocal vested interests if the process is opaque and standards are lax."

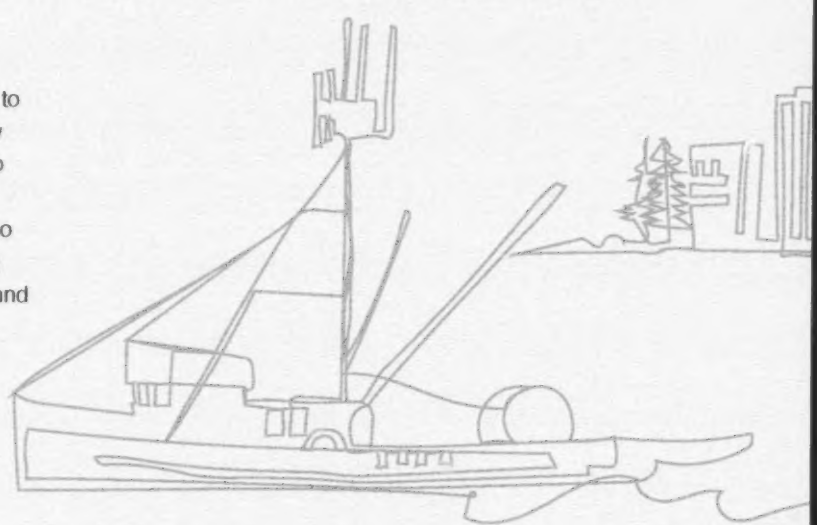
Strong legislation, with independent oversight and enforcement, is therefore critical to achieving transparency in lobbying. The *Lobbyists Registration Act* (LRA) sets out the rules that lobbyists in B.C. must follow in order to ensure there is transparency and accountability for government decision-making.

In the four years since I became Registrar, I have had the pleasure of meeting many lobbyists who are actively engaged in legal and ethical lobbying. They fulfill their legal obligations, contact our Office proactively for advice, and engage in discussions about how to make the law better. I believe that they represent the majority of lobbyists, who support transparency in lobbying and abide by the law.

I have also seen a small, but in my view significant, number of lobbyists who do not exercise due diligence to ensure that they follow the law. Complying with the law is not voluntary; designated filers are legally required to fulfill their obligations, which are laid out clearly in the LRA. Individuals who are required to register must do so punctually, keep their registrations current by updating them as required, and respond promptly to questions and communications from ORL staff.

My experience has demonstrated that, although the majority of lobbyists active in B.C. abide by the law, there is a need for a strong response to those who do not. I have signalled that I am stepping up enforcement activity in order to ensure that all lobbyists comply with the legislation. I intend to use all the resources available to me, including administrative monetary penalties in cases of non-compliance. Lobbying activities will be transparent only through upholding the law.

Experience has also demonstrated that there is an opportunity to enhance lobbying transparency by fine-tuning the LRA. Some features of the LRA inadvertently thwart the aim of enhancing transparency in lobbying by



requiring some lobbyists to register lobbying that has not taken place and allowing others to conduct a considerable amount of lobbying that might never be registered.

In November 2013, I published a report recommending changes to address these inconsistencies. The report summarizes our extensive stakeholder consultation and recommends a small number of amendments. The amendments are easy to implement, cost nothing, and received almost universal stakeholder support.

Most importantly, they support the public interest of allowing citizens to see what lobbying is actually being carried out.

In the coming year, I look forward to working with government to implement these most important, urgent and practical amendments to the LRA.

I would like to acknowledge my staff for their dedicated public service throughout this past year.

Sincerely

Elizabeth Denham
Registrar of Lobbyists for British Columbia

highlights 2013-2014

ORL SHIFTS FOCUS TO ENFORCEMENT

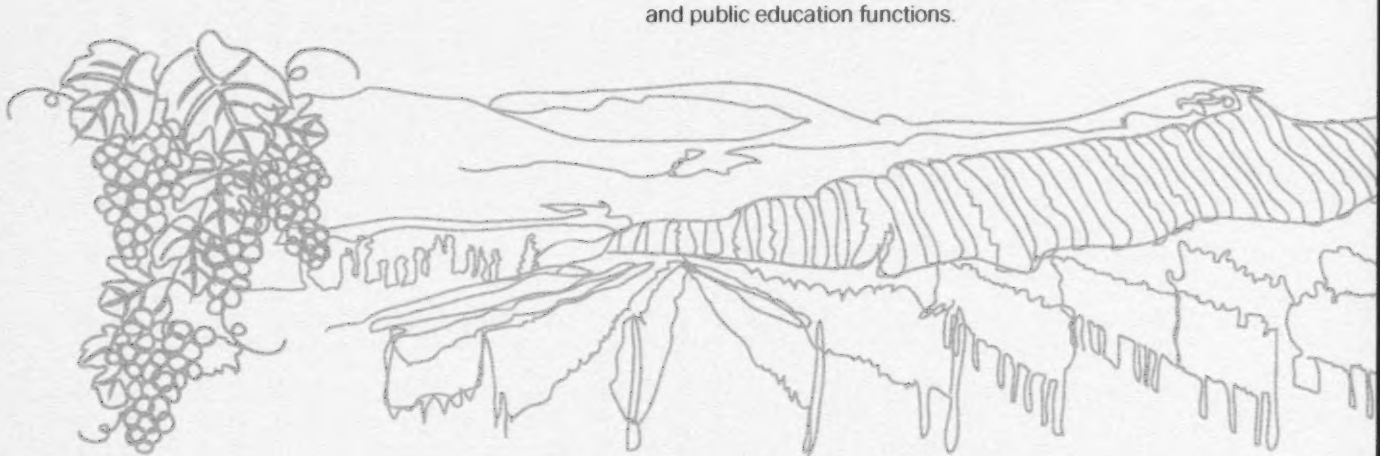
After three years of focussing on public education as the primary measure for increasing compliance with the LRA, the Registrar has signalled her intention to rely more frequently on her enforcement powers. Lobbyists have had several years to become familiar with the rules. People who are subject to the law need to understand that registering and keeping their registrations compliant with the law is more than just 'paperwork'; it's a legal obligation. Although the Office of the Registrar of Lobbyists (ORL) will continue to rely on non-punitive compliance measures when they are appropriate, the Registrar intends to issue further administrative monetary penalties when circumstances warrant them.

REGISTRAR RECOMMENDS LRA AMENDMENTS

After an extensive public consultation, the Registrar published a report in November 2013, recommending five key amendments to the LRA. These included a recommendation that, instead of requiring filers to register who they expect to lobby, the LRA require that they list who they have lobbied, by the 15th day of the following month and remove the requirement for organizations to lobby at least 100 hours annually before they are required to register.

REGISTRAR RESTRUCTURES ORL

The LRA states that the person holding the Office of the Information and Privacy Commissioner is designated as the Registrar of Lobbyists. This year, the Registrar restructured the ORL to reallocate ORL resources. The Deputy Registrar function was transferred to the OIPC Assistant Commissioner of Investigations and Mediation (with a new title of Deputy Registrar/Assistant Commissioner), OIPC investigators now conduct ORL investigations and OIPC Intake Officers provide coverage for the online Lobbyists Registry as required. The restructuring makes efficient use of scarce resources and streamlines the office's investigation, adjudication and public education functions.



mandate and activities

The ORL is charged with enforcing the LRA and overseeing the online B.C. Lobbyists Registry. The LRA defines "lobbying" as communicating, for pay, with a public office holder in an attempt to influence a number of possible outcomes. When activities fit this legal definition, they must be registered on the Lobbyists Registry.

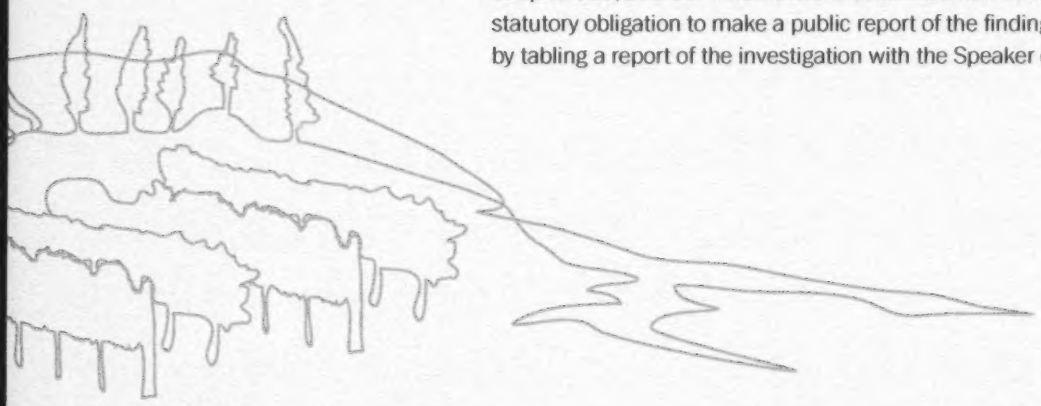
The intent of the LRA is to provide greater transparency about who is attempting to influence government decisions on matters of public interest. The LRA doesn't capture communication between private citizens and government officials regarding matters of personal concern.

COMPLIANCE ACTIVITIES

The Registrar and her staff conduct a variety of activities to promote compliance with the law. Compliance activities include identifying and mitigating barriers to registration; providing public education about the law's requirements; reviewing information submitted in registrations; conducting environmental scans and random verifications of information in registrations; carrying out compliance reviews; resolving non-compliance informally when possible and appropriate; conducting formal investigations when informal resolutions are not indicated; and imposing administrative penalties when there is a finding of non-compliance with the LRA.

If staff suspect a case of possible non-compliance, they assess the available information and make further inquiries as needed. Minor contraventions may be resolved through informal measures, such as public education regarding the nature of registerable activities. More serious matters proceed to a formal investigation and might result in more stringent enforcement actions.

If a formal investigation confirms that there has been a breach of the law or related regulations, the ORL will administer a proportionate administrative monetary penalty of up to $25,000.00. When there is confirmed non-compliance, the Registrar has the statutory obligation to make a public report of the findings and conclusions in the case by tabling a report of the investigation with the Speaker of the Legislative Assembly.



strategic goals

ORL strategic goals for 2013-2014 are part of an overarching strategy meant to achieve greater compliance with the LRA to increase transparency in government decision-making.

GOAL 1: ENHANCE THE ENFORCEMENT FUNCTION OF THE LOBBYISTS REGISTRATION ACT

The LRA was amended in 2010, giving the Registrar of Lobbyists power to compel persons to answer questions and produce records in their custody or control, and to impose administrative monetary penalties in cases of non-compliance.

INCREASE ENFORCEMENT ACTIVITIES

For the first three years after the 2010 amendments came into force, the ORL used public education as the primary compliance tool. Staff members carried out an extensive education program aimed at informing lobbyists about the LRA's provisions and their legal obligations if they met the criteria for registering as lobbyists.

The Registrar has stated her intention to make greater use of her enforcement powers in cases of non-compliance, and has accordingly stepped up formal investigations and the application of administrative monetary penalties where there are findings of non-compliance.

You can find details about the year's compliance activities in the Year in Numbers section.

GOAL 2: PROMOTE GREATER COMPLIANCE THROUGH EDUCATION AND OUTREACH

Public education and stakeholder outreach remain important components in our compliance strategy. We communicate with our stakeholders, including members of the lobbying community, public office holders and members of the general public, to raise awareness of the aims and provisions of the LRA and of the B.C. Lobbyists Registry.

MEETINGS AND PRESENTATIONS

The Deputy Registrar spoke on lobbying and lobby regulation in B.C. at the following meetings in 2013-2014:

The Registrar attended the annual meeting of Lobbyist Registrars and Commissioners in September 2013.

The Deputy Registrar addressed Washington State legislative interns at the B.C. Legislature in March 2014.

In May, the ORL completed the final stages of a broad stakeholder consultation, which led to the Registrar's November report recommending amendments to the LRA.

PUBLICATION

The ORL publishes an e-journal three times yearly. *Influencing BC* provides a forum to discuss matters related to lobbying. Through guest authors, it brings together a range of opinion on lobbying and lobby regulation to help build a policy community and encourage stakeholder dialogue.

To the best of our knowledge, *Influencing BC* is the only journal of its kind that fosters multi-stakeholder commentary on lobbying.

GOAL 3: PROMOTE ENHANCEMENTS TO THE LRA AND REGISTRATION PROCESS

Since the 2009 amendments to the LRA came into force, the ORL has implemented enhancements to the online Lobbyists Registry as budget permits to improve the registration process and the transparency of the registry's data. This year, the ORL also recommended five amendments to the LRA itself to support greater transparency.

LOBBYISTS REGISTRY SYSTEM ENHANCEMENTS

Highlights of Lobbyists Registry system enhancements for the year include:

- Adding a more detailed statistical report to allow those searching the Lobbyists Registry to see how frequently individual public office holders were targeted for lobbying. This change increases transparency regarding whom lobbyists have lobbied or expect to lobby.
- Adding an enhanced screen view allowing registrants to see all the details of existing registrations on one screen. This change makes it easier for registrants to see what information in their registrations needs updating.
- Adding a simple key word search of the Lobbyists Registry and streamlining the advanced search function. This change makes searching the registry more intuitive.

RECOMMENDATIONS TO ENHANCE THE LRA

In November 2013, the ORL published a report recommending improvements to the LRA, including:

1. Instead of requiring filers to register who they "expect to lobby," require that they list who they have lobbied, by the 15th day of the following month.
2. Remove the requirement for organizations to lobby "at least 100 hours annually" before they are required to register their in-house lobbyists.
3. Require former public office holders to refrain, for 12 months after leaving public office, from lobbying the agency where they worked and lobbying on matters they engaged during the last 12 months of their employment.
4. Require filers to list any third-party interests that, to the filer's knowledge after making reasonable inquiries, controls, directs or is a major funding source for the lobbying or has a direct interest in the outcome of the lobbying.
5. Require a mandatory review of the LRA every five years.

These recommendations are designed to enhance the transparency of the data on the B.C. Lobbyists Registry to better reflect what lobbying is actually being carried out, and to address the lack of an adequate legislated cooling-off period for B.C.'s provincial public officials.

the year in numbers

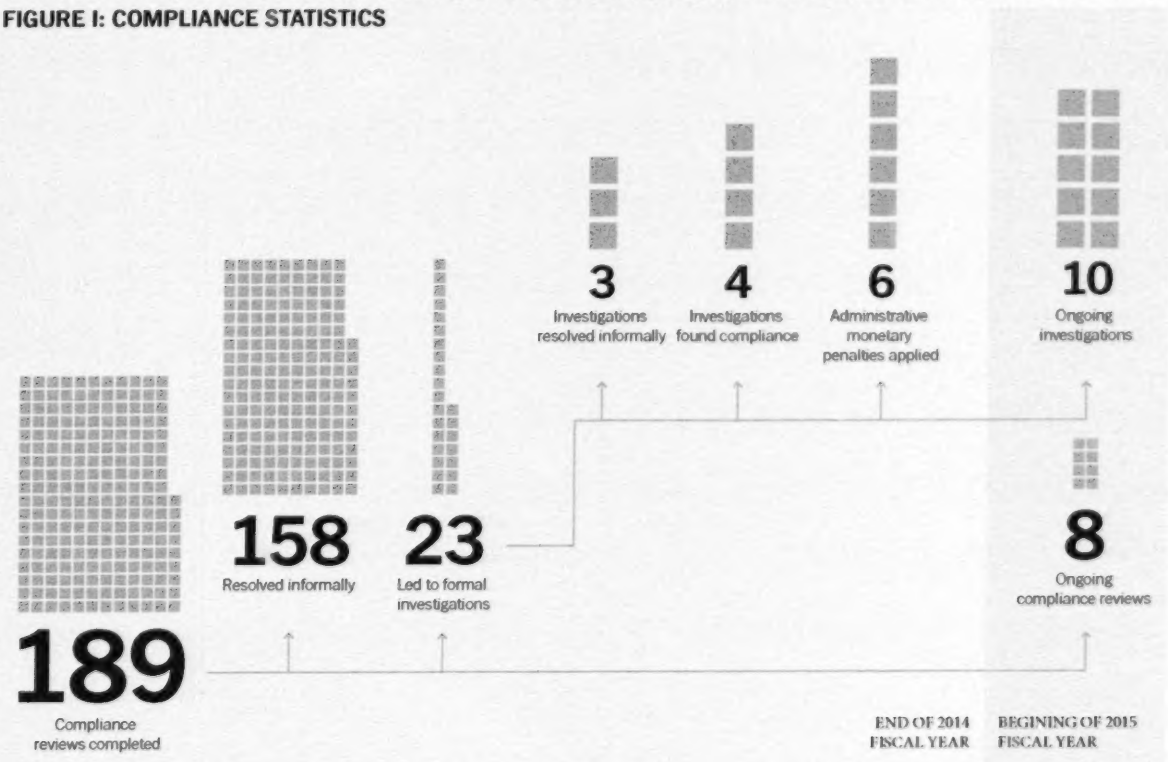
COMPLIANCE STATISTICS

ORL staff conducted 189 compliance reviews this year. Of these, 158 were resolved through informal means, such as public education to inform those unfamiliar with the Act of their obligations and warnings for minor first-time non-compliance. Informal means of achieving compliance are significantly more cost-effective, and the ORL aims to use informal means to resolve possible non-compliance whenever they are appropriate and effective.

Compliance reviews led to 23 formal investigations. Of these, three investigations were resolved informally; four were found to be compliant with the law; and six resulted in a finding of non-compliance and the application of an administrative monetary penalty.

At the beginning of fiscal year 2015, 10 investigations and eight compliance reviews commenced in fiscal year 2014 were still underway.

FIGURE I: COMPLIANCE STATISTICS



In addition to conducting compliance reviews, ORL staff also review and verify registrations when they are submitted to the online Lobbyists Registry. When registrants submit registrations containing inaccurate, incomplete or inexact information that can obscure transparency in the Registry, ORL staff request that they make appropriate corrections. Between April 1, 2013 and March 31, 2014, ORL staff requested that 237 registrants correct their registration returns.

ACTIVE REGISTRATIONS

The law requires that "designated filers" be responsible for registering all persons who should be registered. The LRA recognizes two types of lobbyists, **consultant lobbyists,** individuals who are hired to represent clients (in an "undertaking") and **in-house lobbyists,** employees of organizations who lobby on behalf of their organization.

The law stipulates differing requirements for registration by consultant lobbyists and organizations that lobby. Consultant lobbyists are their own designated filers and must register themselves within 10 days of entering into an undertaking, whether any lobbying has taken place or not. Consultant lobbyists' registrations are ongoing, showing the entire history of the data entered while the registration remains active. Consultants' registrations remain active until 30 days after the end date entered by the consultant lobbyist. After that, the registration is still visible on the Lobbyists Registry, showing as "terminated" rather than "active."

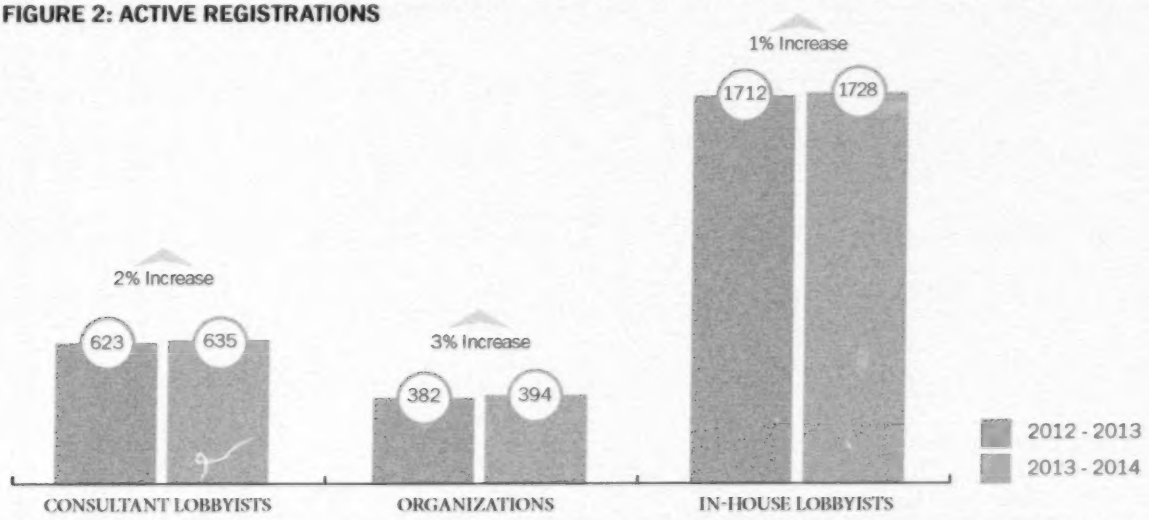
The designated filer for an organization is the most senior officer in the organization who is paid for his or her work. Organizations' designated filers register on behalf of their organizations, listing as in-house lobbyists all staff members who contribute significantly to the lobbying effort.

Organizations are required to register when the collective lobbying efforts of staff members reach 100 hours annually. After their initial registration, organizations are required to re-register every six months, if they continue to lobby. Because the law requires organizations to re-register every six months, organizations' registrations are not a continuous record of the lobbying activities of organizations. Previous, expired registrations are still visible on the B.C. Lobbyists Registry, showing as "terminated."

"Active registrations" means all the registrations that were active at some point during the 2013-2014 fiscal year. This includes registrations that began before the year started and continued into or through the year, as well as those that began during the year.

There were small increases in all three registration categories over the past year. The number of registrations by consultant lobbyists increased by 2%, the number of organizations that registered increased by 3% and the number of in-house lobbyists reported by organizations increased by 1%.

FIGURE 2: ACTIVE REGISTRATIONS



REGISTRATION DETAILS

To support the goal of transparency, registrants on the B.C. Lobbyists Registry are required to report who they lobby or expect to lobby, on what subject matters, and with what intended outcomes.

LOBBYING TARGETS

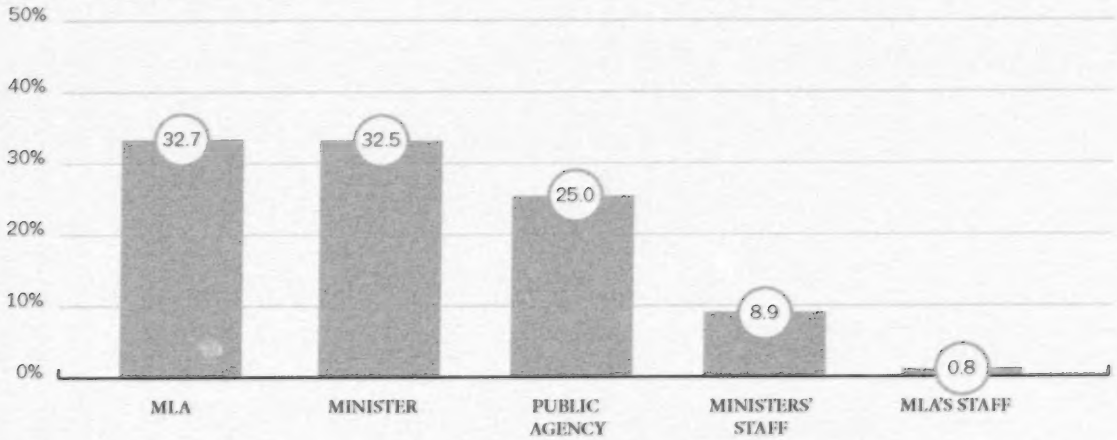
A "lobbying target" is a public office holder whom a lobbyist names as an intended "target" in a lobbying effort. When lobbyists register, they choose the target(s) for their lobbying from a list of options presented in a drop-down menu. Options include the following:

- "Members of the Legislative Assembly";
- "Ministers";
- "Public Agencies," which include ministries, crown corporations, commissions, health authorities, post-secondary institutions, administrative tribunals, and various other non-government public bodies;
- "Ministers' Staff," which includes those staff members who work in the office of a Cabinet Minister; and
- "MLAs' Staff, which includes those staff members who work in an MLA's constituency office.

Lobbying targets listed by registrants during the 2013-2014 fiscal year are shown in Figure 3 as a percentage of the total number of targets.

Members of the Legislative Assembly and Ministers each comprise about one-third of all lobbying targets. Public Agencies comprise one-quarter of the total. These three together make up about 90% of all lobbying targets listed.

FIGURE 3: LOBBYING TARGETS



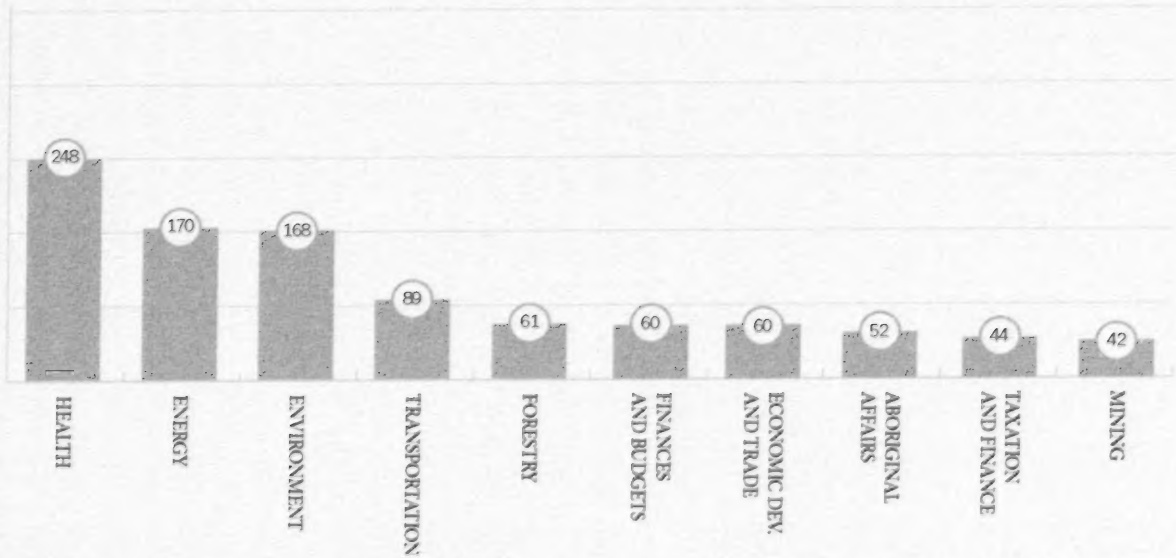
Because the LRA requires that a registration provide details of whom the lobbyist "has lobbied or expects to lobby," the figures may represent both actual lobbying that has occurred as designated filers register, as well as their "best guesses" for who they might lobby while their registration remains active.

SUBJECT MATTERS

Registrants choose lobbying subject matters from a drop-down menu that lists common issues on which public office holders are lobbied, such as education, economic development, transportation, and others. When designated filers register, they choose the appropriate subject matter(s) for that registration. For example, the registration of an environmental awareness group is likely to choose "Environment" as the subject matter of the lobbying effort.

The top five subject matters for 2013-2014 are the same and hold the same relative rank, for the third year in a row. "Finances and Budgets," "Economic Development and Trade," "Aboriginal Affairs," and "Taxation and Finance" have also appeared in the top ten in the past two years. The last subject matter in the chart, "Mining," entered the top ten for the first time, while "Labour and Labour Relations," which appeared in the top ten in the last two years, fell to 11th in the ranking this year.

FIGURE 4: LOBBYING SUBJECT MATTERS



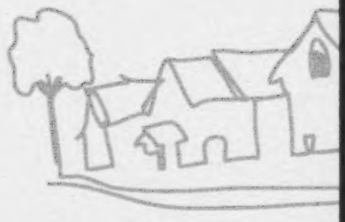
INTENDED OUTCOMES

"Intended Outcomes" are the results that lobbyists hope to achieve through the lobbying effort. These are also chosen from a list in a drop-down menu. The list of intended outcomes is drawn from the definition of lobbying in the LRA, and so reflects the legal definition of lobbying, in contrast to other activities that resemble it, such as citizen advocacy.

Intended outcomes listed by registrants are similar across the last two years. In both years, the top three intended outcomes comprise a large majority of outcomes chosen by registrants. In 2012-2013, these three made up about 85% of the total; in 2013-2014, the same outcomes make up about 86% of the total.

TABLE 1: INTENDED OUTCOMES OF LOBBYING

	2013-2014		2012-2013	
INTENDED OUTCOME	# Instances	% Total	# Instances	% Total
Development, establishment, amendment or termination of any program, policy or decision	2,657	37.2%	2,248	33.6%
Arranging a meeting between an individual and a public office holder for purpose of lobbying	2,116	29.6%	2,251	33.6%
Introduction, modification or repeal of legislation, a bill or regulation	1,368	19.1%	1,216	18.2%
Arranging a meeting between an individual and a public office holder	569	8.0%	567	8.5%
Awarding, amendment or termination of a contract, grant or financial benefit	408	5.7%	379	5.7%
Decision of cabinet to transfer interest in a government enterprise or privatize services	33	0.5%	34	0.5%
Total:	**7,151**	**100%**	**6,695**	**100%**



financial reporting

The budget of the ORL is incorporated as part of the budget of the Office of the Information and Privacy Commissioner (OIPC). As part of the approval of the annual Estimates, the Legislative Assembly votes a budget for the two offices as recommended by the Select Standing Committee on Finance and Government Services.

For more information, please see the OIPC Annual Report and Budget and Service Plan at www.oipc.bc.ca under the Reports tab.

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